



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

February 23, 1996

Mr. Mark T. Sokolow
City Attorney
City of League City
300 West Walker
League City, Texas 77573

OR96-0233

Dear Mr. Sokolow:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 35837.

The City of League City (the "city") received an open records request for

[a] complete unaltered copy or copies of any memorandum including any and all electronically recorded tapes of the minutes of the City Council meeting of the City of League City, Texas. This should also include the written transcripts, any written opinions, or letters introduced as evidence in the hearings concerning the issues against Mr. Al Berringer and his wrongful termination and removal from office as President of the 4B Corporation.

You state that the city has released to the requestor most of the requested information. You seek to withhold, however, a "legal opinion" addressed to the city's mayor pursuant to the attorney-client privilege as incorporated into section 552.107(1)¹ of the Government Code.

¹Although you also raise the attorney-client privilege in the context of section 552.101 of the Government Code, this privilege is more properly deemed to be an aspect of section 552.107(1), which protects "information that the attorney general or an attorney of a political subdivision is prohibited from disclosing because of a duty to the client under the Rules of the State Bar of Texas." See Open Records Decision No. 574 (1990).

In instances where an attorney represents a governmental entity, the attorney-client privilege protects only an attorney's legal advice and confidential attorney-client communications. Open Records Decision No. 574 (1990). The document you submitted to this office for review clearly constitutes an attorney's legal advice or opinion to his client and thus comes within the attorney-client privilege.

This does not, however, end our discussion as to whether the legal opinion must be released to the public. In this instance the requestor has specifically asked for "written opinions . . . introduced as evidence in the hearings." If the mayor or any other city council member announced during the city council meeting the subject matter of the legal opinion and the legal conclusions reached in that opinion, the attorney-client privilege has been waived and the requested information may not now be withheld from the public. See Open Records Decision No. 412 (1984). Absent such a public announcement, we conclude that the city may withhold the legal opinion in its entirety pursuant to section 552.107(1) of the Government Code.²

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Karen E. Hattaway
Assistant Attorney General
Open Records Division

KEH/RWP/ch

Ref.: ID# 35837

Enclosure: Submitted document

²We note that the open records laws were substantially amended by the Seventy-fourth Legislature. Act of May 29, 1995, 74th Leg., R.S., ch. 1035, 1995 Tex. Sess. Law Serv. 5127 (Vernon) (to be codified as amendments to Gov't Code ch. 552). The amendments to chapter 552 "affecting the availability of information, the inspection of information, or the copying of information, including the costs for copying information, apply only to a request for information that is received by a governmental body on or after September 1, 1995." *Id.* § 26(a), 1995 Tex. Sess. Law Serv. at 5142 (Vernon). A request for information that is received by a governmental body prior to September 1, 1995, is governed by the law in effect at the time the request is made. *Id.*

cc: Mr. John W. Armstrong III
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(w/o enclosures)